



An Coimisinéir Faisnéise
Information Commissioner

Case RPSI/24/05

Decision of the Information Commissioner in his capacity as Appeal Commissioner on an appeal made under Regulation 15 of the European Union (Open Data and Re-use of Public Sector Information) Regulations 2021 (the Regulations)

Date of decision: 4 December 2025

Appellant: Mr X

Public Sector Body: Kildare County Council (the Council)

Issue: Whether the Council's decision to refuse the appellant's request for re-use of the derelict sites register under Regulations 3(2)(d)(i), 3(2)(f) and 7(3) was in compliance with the Open Data Regulations.

Decision: The Commissioner annulled the Council's decision. He directed the Council to release the full register in excel/machine readable format.

Right of Appeal: A party to this appeal or any other person affected by this decision may appeal this decision to the High Court on a point of law from the decision, as set out in Regulation 20 of the Regulations. Such an appeal must be initiated not later than eight weeks after notice of this decision was given to the person bringing the appeal.

Background

1. On 18 September 2024, the appellant made a re-use request to the Council under the Regulations in respect of the derelict sites register:

“I am seeking a complete copy of your Council’s Derelict Sites register, preferably in an open and machine-readable format, such as CSV or Excel.
2. The appellant referred to Section 8 of the Derelict Sites Act 1990. Section 8(1) contains a list of items that must be entered on to the register, including at subsection (b): “the name and address of each owner and occupier, where these can be ascertained by reasonable enquiry”.
3. Section 8(5) provides that the register must be kept at the offices of the local authority and be available for inspection during office hours.
4. This provision was described by the Government of the day as a “commitment to open government” when the Act was being debated in the Oireachtas.
5. I am satisfied that the “complete copy” referred to by the appellant is of the derelict site register containing the relevant items listed in Section 8(1) of the Derelict Sites Act 1990 (i.e. the full register).
6. On 14 October 2024, the Council issued its decision. It stated that it was refusing the appellant’s request under Regulations 3(2)(d)(i), 3(2)(f), and 7(3).
7. Regulation 3(2)(d)(i) provides that the Regulations do not apply to documents to access to which is excluded under the Data Protection Acts 1988 to 2018.
8. Regulation 3(2)(f) provides that the Regulations do not apply to “documents access to which is restricted by virtue of the enactments referred to in subparagraph (d) or any other enactment, including where a person is required to prove a particular interest in order to obtain access to documents”.
9. The Council also referred to Regulation 3(4)(a) which provides that nothing in the Regulations shall be read as “affecting any right or function under the Data Protection Acts 1988 to 2018.”
10. Regulation 7(3)(a) and (b) of the Regulations provides that nothing in the Regulations shall be construed as requiring a public sector body “to (a) create or adapt any document, (b) provide extracts from documents where this would involve disproportionate effort, going beyond a simple operation...”
11. The Council noted that Section 8(5) of the Derelict Sites Act 1990 provides that the register shall be kept at the offices of the local authority and shall be available for inspection at the offices of the local authority during office hours. The Council submitted that this is a limited right of access, which does not extend to providing a complete copy of the register for re-use. It also stated that the register contains personal data and providing the appellant with a copy would reveal or be capable of revealing personal data relating to another individual.
12. I note that an abridged version of the register is available on the Council’s [website](#)
13. Also on 14 October 2024, the appellant submitted an appeal of the Council’s decision to this Office.

14. During the course of this review, the Council was invited to make submissions in support of its decision. No submissions were received.
15. I have now completed my review under the Regulations. In so doing, I have regard to the correspondence between the Council and the appellant as outlined above and to correspondence between my Office and both the Council and the appellant on the matter. What follows does not comment or make findings on each and every argument advanced but all relevant points have been considered.

Scope of Review

16. Regulation 15(1) of the Regulations provides that a requester can appeal to the Appeal Commissioner where a public sector body decides:
 - (a) to refuse to allow a requester to re-use a document
 - (b) to refuse to grant an exclusive right to a requester to re-use a document
 - (c) to allow the re-use of a document but subject to a proposed charge being paid which the requester believes does not accord with the requirements of the Regulations in setting the amount of the proposed charge
 - (d) to allow the re-use of a document subject to imposing conditions.
17. Regulation 17(2) provides that the Appeal Commissioner (a) shall review in accordance with the Regulations a decision to which the Regulations apply, and (b) following the review, may, as the Appeal Commissioner considers appropriate, decide (i) to affirm or vary the decision, or (ii) to annul the decision and, if appropriate, make such decision in relation to the matter concerned as he or she considers proper, in accordance with the Regulations.
18. Regulation 6(5)(a) provides that where a request under the Regulations is refused by a public sector body, it shall communicate the grounds for refusal to the requester, in particular and where appropriate by reference to the matters contained in Regulation 3(2)(a) to (h) or Regulation 5. Regulation 5(1) provides that a document to which the Regulations apply shall be made available for re-use in accordance with the conditions provided for in Regulations 7 to 13.
19. In its decision, the Council indicated that it was refusing the appellant's re-use request under Regulation 3(2)(d)(i), 3(2)(f), and 7(3). I consider that its reference to Regulation 3(4) supports its finding under those provisions. As noted, Regulation 15(1) sets out the types of decisions of public sector bodies that are open to appeal to the Appeal Commissioner. I am satisfied that a public sector body's decision to refuse re-use under Regulation 3(2)(d)(i) on the basis that the Regulations do not apply to documents access to which is excluded under the Data Protection Acts 1988 to 2018 and under Regulation 3(2)(f) on the basis that the Regulations do not apply to "documents access to which is restricted by virtue of the enactments referred to in subparagraph (d) or any other enactment", and under 7(3), is within my jurisdiction to review as it falls under paragraph (a) of Regulation 15(1), which simply pertains to the refusal of a re-use request.
20. This review concerns whether the Council was justified in refusing the appellant's request for re-use of the whole document requested, the full derelict sites register, under Regulations 3(2)(d)(i), 3(2)(f), and 7(3) of the Regulations.

Regulation 3(2)

21. Regulation 3(1)(a) of the Regulations states that they apply to existing documents held by public sector bodies. It is not in dispute that this condition is met – I understand that the Council has a complete copy of the register containing the relevant items set out at Section 8(1) of the Derelict Sites Act, including owner details i.e. item (b) “the name and address of each owner and occupier.”
22. The Council is refusing the appellant’s re-use request in respect of the full register under Regulations 3(2)(d)(i) and 3(2)(f) of the Regulations. Regulation 3(2)(d)(i) of the Regulations provides:

“These Regulations shall not apply to the following ... documents access to which is excluded under... the Data Protection Acts 1988 to 2018”
23. Regulation 3(2)(f) of the Regulations provides:

“These Regulations shall not apply to the following ... documents access to which is restricted by virtue of the enactments referred to in subparagraph (d) or any other enactment, including where a person is required to prove a particular interest in order to obtain access to documents.”
24. The Council also referred to Regulation 3(4)(a) which provides that nothing in the Regulations shall be read as “affecting any right or function under the Data Protection Acts 1988 to 2018.”
25. The Council noted that Section 8(5) of the Derelict Sites Act 1990 provides that the register shall be kept at the offices of the local authority and shall be available for inspection at the offices of the local authority during office hours. The Council submitted that this is a limited right of access, which does not extend to providing a complete copy of the register for re-use. It also stated that the register contains personal data and providing the appellant with a copy would reveal or be capable of revealing personal data relating to another individual.
26. The general thrust of the Council’s position is that it has obligations under the Data Protection Act 1988 to 2018 / GDPR that prevent it from providing the appellant with an electronic copy of the full register. Having regard to the wording of Section 8(5) of the Derelict Sites Act 1990, I am satisfied that all of the items at Section 8(1) of the Derelict Sites Act 1990, are required to be contained on the register available for inspection at the Council’s Offices in accordance with Section 8(5).
27. I have considered the Council’s submissions in the context of the scheme and purpose of the Derelict Sites Act 1990. As noted above, section 8 of the Act was described during the Oireachtas debates around the Act as a “commitment to open government”. The original purpose of the legislation was to deal with the problem of dereliction which was, at the time, a growing problem in many towns and cities in Ireland. Dereliction remains a problem across Ireland and remains an issue of significant public interest in the context of an acute housing crisis. A recent report by GeoDirectory¹ found there are just under 20,000 derelict residential addressees in Ireland.
28. In relation to the register, the Minister of State at the time commented in the Seanad that, *“This public register of derelict sites will serve a number of purposes. In the case of urban land, liability for the derelict sites levy will automatically follow from entry in the derelict sites register. The register will also inform prospective new property owners that land is formally classified as a derelict site, with all of the liabilities and obligations which this will entail. Most importantly, the derelict sites register will stand as a public indication and reminder of the extent of the dereliction in a local authority area. If any interested member of the public, any representative or any member of a local authority wishes to make*

¹ GeoDirectory was established in 1999 by An Post and Tailte Eireann.

representations that the register does not adequately list all the derelict sites, then it will be fully open to them to do this.”

29. I am satisfied that the purpose of this provision was to ensure wide access to information contained on the derelict sites register by the public and that the purpose for which such information was collected was to create and maintain a register which would be – and is in fact – available in the public domain.
30. I consider that the means of access prescribed in the Act, namely inspection at the office of the relevant local authority, is simply a feature of the time the Act was enacted, when local authorities would not have been able to place this information on the internet, and inspection of documents at the offices of a local authority was a standard procedure. I note that some Councils, e.g. South Dublin County Council, have placed the full register on its website. I do not accept that the requirement that the register is made available for inspection in the office of the local authority was intended as a restriction on the availability of access to this information.
31. Indeed, inspection of information online – whether on a website or on receipt of the information by email - is now the only way in which some members of our society are able to access information in practice. This may be because their working or family arrangements prevent them from attending local authority buildings during office hours or because a disability prevents them from attending at all. Inspecting a hard copy document may not be practical or possible at all for someone with a disability. Restricting access to in-person inspection during office hours is entirely contrary, therefore, to the aim of enabling the public to access the information on the register, which was the original purpose for which the personal data was collected.
32. The personal data that is contained on the register is not of an inherently sensitive nature. As I have explained above, it is already in the public domain for reasons in the public interest. Some of the information, specifically information on ownership of land, is also in the public domain through Tailte Eireann. Where the information is in the public domain in this manner, any person could already access and decide to re-use that information, but it would involve a greater effort and a greater risk of inaccuracy due to human error. As a result, any interference as a result of re-use with rights in respect of personal data or privacy is minimal.
33. I note that Article 5(1)(b) of the GDPR provides that personal data shall be “collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes...”, which is known as the “purpose limitation” principle. Article 5(1)(c) of the GDPR requires that personal data shall be “adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed”, which is known as the data minimisation principle.
34. Having considered all of the above, I am not satisfied that the principle of data minimisation or any other obligation under the Data Protection Acts or GDPR prohibits the Council from providing the appellant with full access to the document sought in electronic form, including the personal data contained therein. I am satisfied that the provision of the document to the appellant is not incompatible with the purposes and aims of section 8 of the Derelict Sites Act 1990 and therefore is compatible with the “purpose limitation” principle, as contained in paragraph 5(1)(b) of the GDPR. Accordingly, I cannot find that document which the applicant wishes to reuse is excluded from the scope of the Open Data Regulations by the Data Protection Acts 1988 to 2018/the GDPR.
35. Accordingly, I am not satisfied that the full register, including the ownership details, is excluded from the Open Data regime by virtue of regulations 3(2)(d)(i) or 3(2)(f) of the Open Data Regulations. I find, therefore, that the Council’s decision is not justified.

Regulation 7(3)

36. Regulation 7(3)(a) and (b) of the Regulations provide that nothing in the Regulations shall be construed as requiring a public sector body “to (a) create or adapt any document, (b) provide extracts from documents where this would involve disproportionate effort, going beyond a simple operation.”
37. As noted, the appellant’s re-use request is for a complete copy of the Council’s Derelict Site Register in an open and machine readable format (e.g. CSV or Excel). I am satisfied that the “complete copy” referred to by the appellant is of the derelict site register containing the relevant items listed in Section 8(1) of the Derelict Sites Act 1990. I have already found that the Council’s reliance on Regulation 3(2) of the Regulations is not justified. The remaining question at issue is whether the Council’s decision to refuse the appellant’s re-use request of the “complete copy” of the derelict sites register by way of Excel/machine readable format under Regulation 7(3)(a) and (b) was justified.
38. The duty to give reasons for refusal is recognised generally as a core principle of administrative law and a fundamental element of constitutional justice (see, for example, *Meadows v Minister for Justice* [2010] IESC 3 and *Balz & Anor v An Bord Pleanála & Ors* [2019] IESC 90). Both of these judgments make it clear that where a requester has all or part of a request refused, they are entitled to be provided with clear reasons for that refusal. This duty arises so that the requester can take a view as to whether they consider refusal justified, or whether they wish to exercise their entitlement to have the refusal reviewed through an appeal to this Office.
39. The Council gave no reasons regarding why it considered that to provide the full register by way of excel/machine readable format would require it to create or adapt any document or provide extracts from documents that would involve disproportionate effort, going beyond a simple operation.
40. There is no evidence before me to suggest that the full register containing the relevant items listed in Section 8(1) of the Derelict Sites Act 1990 that is required to be made available for inspection under Section 8(5), is not also held in electronic form by the Council or that more than a simple operation would be required to prepare it to be provided to the appellant in excel / machine readable format.
41. In circumstances where the Council has not shown that Regulation 7(3) properly applies, I cannot find its decision under that provision is justified.

Decision

42. In accordance with Regulation 17(2) of the Regulations, I have reviewed the Council’s decision under Regulations 3(2)(d)(i), 3(2)(f), and 7(3) and I annul it under Regulation 17(2)(b)(ii). I direct the Council to provide the appellant with the full register in excel/machine readable format.

Right of Appeal

43. A party to this appeal or any other person affected by this decision may appeal this decision to the High Court on a point of law from the decision, as set out in Regulation 20 of the Regulations. Such an appeal must be initiated not later than eight weeks after notice of this decision was given to the person bringing the appeal.

Julie O'Leary
Senior Investigator
4 December 2025